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3 UNITED STATES DISTRICT COURT  
4 WESTERN DISTRICT OF WASHINGTON  
5 AT TACOMA

6 FRANCES DU JU,

7 Plaintiff,

8 v.

9 MAURICE LACOMBE, et al.,

10 Defendants.

CASE NO. C18-5309 BHS

ORDER GRANTING IN PART  
PLAINTIFF'S MOTION FOR  
ENTRY OF FINAL JUDGEMENT  
AND DENYING PLAINTIFF'S  
MOTION FOR DEFERMENT AS  
MOOT

11 This matter comes before the Court on Plaintiff Frances Du Ju's ("Ju") motion  
12 asking the Court to deny or disregard a notice of unavailability filed in the docket, Dkt.  
13 67, and Ju's motion for entry of final judgment as to fewer than all parties, Dkt. 70. The  
14 Court has considered the pleadings filed in support of and in opposition to the motions  
15 and the remainder of the file and hereby and denies as moot the motion involving the  
16 notice of unavailability and grants in part the motion for entry of final judgment for the  
17 reasons stated herein.

18 **I. FACTUAL & PROCEDURAL HISTORY**

19 On April 20, 2018, Ju filed a complaint asserting various causes of action against  
20 Defendants Washington State, John/Jane Doe employees of the Court of Appeals,  
21 Division II, Maurice Lacombe ("Lacombe"), and Airbnb, Inc. Dkt. 1. Ju's claims against  
22 Washington State and the John/Jane Doe employees (collectively referenced in prior

1 orders and hereinafter as “State Defendants”) and Lacombe are based on factual  
2 allegations arising from an unlawful detainer action in the state superior court, which  
3 entered a judgment adverse to Ju, and a subsequent appeal affirming the judgment.

4 On December 5, 2018, the Court issued an order granting the State Defendants’  
5 motion to dismiss based on judicial and sovereign immunity and for lack of subject-  
6 matter jurisdiction. Dkt. 54.<sup>1</sup> The Court also concluded that any amendment of Ju’s  
7 claims against the State Defendants would be futile and dismissed the claims against the  
8 State Defendants with prejudice. *Id.* at 13. On January 25, 2019, the Court denied Ju’s  
9 motion for reconsideration. Dkt. 62.

10 On March 27, 2019, Lacombe filed a notice of unavailability in the docket  
11 indicating his unavailability between April 4 and April 23, 2019. Dkt. 66 (“it is requested  
12 that any action taken in this case would be scheduled or deferred accordingly.”). On April  
13 4, 2019, Ju filed a motion “to Deny Defendant Lacombe’s [sic] Request for Deferment.”  
14 Dkt. 67. Lacombe did not respond.

15 On April 19, 2019, the Court denied a motion to dismiss brought by Lacombe.  
16 Dkt. 69. In that order, Dkt. 69, the Court construed Ju’s response to the motion to dismiss  
17 as a request for leave to amend her complaint, *see* Dkt. 61 at 9, 11–13, which the Court  
18 granted, Dkt. 69 at 2–4. To the extent that Ju sought to add to or clarify her claims against  
19 the already-dismissed State Defendants, the Court denied leave to amend. *Id.* at 2. The  
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21 <sup>1</sup> The Order also compelled Ju and Defendant Airbnb to arbitration, staying discovery  
22 between the parties in the interim. Dkt. 54 at 13–14. Ju does not seek to disturb or otherwise  
address that order through the instant motion.

1 Court explained that it was granting leave to amend the complaint against the remaining  
2 defendants (Lacombe and Airbnb) because the factual basis for Ju’s claims against these  
3 defendants was confusing, leaving the Court unable to assess subject-matter jurisdiction.  
4 *Id.* at 4 (“it is unclear whether amendment of these claims would be futile.”). As a result,  
5 the Court ordered Ju to file an amended complaint explaining how Lacombe had  
6 specifically interfered with her rights on each claim brought against him by May 3, 2019.  
7 *Id.*

8 On April 30, 2019, Ju moved for entry of final judgment under Fed. R. Civ. P.  
9 54(b) of the Court’s Order Dismissing State Defendants, Dkt. 54, and Order Denying  
10 Motion for Reconsideration, Dkt. 62. Dkt. 70. Ju also sought leave to stay the filing  
11 deadline of the amended complaint. *Id.* at 2. On May 13, 2019, the State Defendants  
12 responded. Dkt. 72. The State Defendants “do not object to entry of a final judgment . . .  
13 as to the dismissal of the claims against the State Defendants.” *Id.* However, the State  
14 Defendants “object to any amendment of the complaint that includes claims against the  
15 State Defendants.” *Id.*

16 On May 15, 2019, Lacombe responded. Dkt. 73. On May 16, 2019, Ju replied.<sup>2</sup>

## 17 II. DISCUSSION

### 18 A. Motion for Entry of Final Judgment

19 “When an action presents more than one claim for relief . . . or when multiple  
20 parties are involved, the court may direct entry of a final judgment as to one or more, but  
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22 <sup>2</sup> The Court grants Ju’s motion to strike Lacombe’s untimely response.

1 fewer than all, claims or parties only if the court expressly determines that there is no just  
2 reason for delay.” Fed. R. Civ. P. 54(b). An order of dismissal with prejudice is a final  
3 order. *Wakefield v. Thompson*, 177 F.3d 1160, 1162 (9th Cir. 1999). The determination of  
4 whether “there is any just reason for delay . . . is left to the sound judicial discretion of  
5 the district court.” *Curtiss-Wright Corp. v. Gen. Elec. Corp.*, 446 U.S. 1, 8 (1980).

6 In this case, the claims against the State Defendants have been finally adjudicated.  
7 See Dkt. 54 (Order Granting State Defendants’ Motion to Dismiss with Prejudice; Dkt.  
8 62 (Order Denying Motion for Reconsideration). Ju argues that there is no just reason to  
9 delay in entering final judgment on the Court’s dismissal with prejudice of the State  
10 Defendants. The Court finds that is no just reason to delay appellate review of the Court’s  
11 dismissal of the claims against the State Defendants because the State Defendants do not  
12 oppose final judgment. Dkt. 72. Moreover, in dismissing the claims against the State  
13 Defendants with prejudice the Court relied in part on the doctrines of sovereign and  
14 judicial immunity. Dkt. 54. If another appeal is later taken by Ju or one of the remaining  
15 defendants, who are not state actors, that appeal is unlikely to necessitate repeat analysis  
16 of the sovereign and/or judicial immunity issues. Therefore, the Court grants Ju’s  
17 unopposed motion for entry of final judgment in favor of the State Defendants.

18 Ju also seeks to stay the filing deadline for the amended complaint against  
19 Lacombe until the parties submit briefing to the Ninth Circuit, presumably referring to  
20 the parties on the appeal that Ju plans to take against the State Defendants once this Court  
21 enters an order of finality. Dkt. 70 at 2. Ju believes that an amended complaint omitting  
22 causes of action against the State Defendants will “confuse and mislead the 9th Circuit

1 Court; and jeopardize the appeal and the legality of an amended Complaint.” *Id.* at 10.  
2 The Court disagrees because, as stated in its order requiring Ju to file an amended  
3 complaint, “the Court is unable to evaluate the legal sufficiency of its jurisdiction because  
4 Ju’s complaint does not plausibly show *how* Lacombe allegedly acted in interference with  
5 Ju’s rights on each claim, entitling her to relief. Dkt. 69 at 4 (citing *Bell Atlantic Corp. v.*  
6 *Twombly*, 540 U.S. 544, 555–56 (2007) (emphasis in original). Ju does not explain how  
7 the Court’s requirement that she file an amended complaint omitting causes of action  
8 against the already-dismissed State Defendants will jeopardize (1) the Circuit’s review of  
9 the Court’s grant of the State Defendants’ motion to dismiss based on the original  
10 complaint; or (2) the legality of the amended complaint. Therefore, Ju’s request to stay  
11 the filing deadline for the amended complaint is denied.<sup>3</sup>

12 **B. Motion to Disregard or Deny Lacombe’s Notice of Unavailability**

13 Lacombe previously noticed his unavailability between April 4 and April 23,  
14 2019. Dkt. 66. Ju moved the Court to “deny Mr. Lacombe’s Order-like Notice of a 20-  
15 day deferment.”). Dkt. 67. The Court declines to grant the motion. It is common for  
16 litigants to periodically file notices of unavailability in court dockets as a professional  
17 courtesy to opposing counsel and the court. *See Luyster v. Bishop, et al.*, No. 18-  
18 6022BHS-TLF, Dkt. 22 (Notice of Unavailability filed June 21, 2019); *Chavez-Flores v.*  
19 *United States Immigration and Customs Enforcement, et al.*, No. 18-5139BHS-DWC,  
20 Dkt. 189 (Notice of Unavailability filed June 21, 2019). Moreover, during the period in

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21 <sup>3</sup> Ju also requested additional time to complete the filing. Dkt. 70 at 10. The Court grants  
22 this request as specified in its order.

1 which Lacombe was unavailable the Court issued an order addressing Lacombe's motion  
2 to dismiss, showing that the notice did not delay the proceedings. Dkt. 69 (entered April  
3 19, 2019). Therefore, Ju was not prejudiced by Lacombe's filing of a notice of  
4 unavailability in the docket even if the Court had construed the notice as a motion for the  
5 Court to defer or stay action during Lacombe's unavailability, which the Court did not  
6 do. Because the Court acted on the motion during Lacombe's unavailability and because  
7 it is now the end of June, the motion is denied as moot.

### 8 9 **III. ORDER**

10 Therefore, it is hereby **ORDERED** that Ju's motion for entry of final judgment as  
11 to the State Defendants, Dkt. 70, is **GRANTED** and Ju's motion regarding Lacombe's  
12 notice of unavailability, Dk. 67, is **DENIED**.

13 The Clerk shall enter **JUDGMENT** in favor of the State Defendants.

14 Ju shall file an amended complaint by **July 30, 2019**, pursuant to the Court's  
15 directive found at page four of Dkt. 69.

16 Dated this 28th day of June, 2019.

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19 **BENJAMIN H. SETTLE**  
20 United States District Judge  
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